

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं  
श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.407/Mds/2016

निर्धारण वर्ष / Assessment Year : 2012-13

M/s Shriram Wealth Advisors Ltd.,  
Mookambika Complex,  
No.4, Lady Desika Road,  
Mylapore, Chennai – 600 004.

v. The Deputy Commissioner of  
Income Tax,  
Corporate Circle 6(1),  
Chennai – 600 034.

PAN : AAMCS 0723 P

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh. R. Sivaraman, Advocate

प्रत्यर्थी की ओर से/Respondent by : Sh. P. Radhakrishnan, JCIT

सुनवाई की तारीख/Date of Hearing : 13.04.2016

घोषणा की तारीख/Date of Pronouncement : 05.05.2016

### **आदेश /O R D E R**

**PER N.R.S. GANESAN, JUDICIAL MEMBER:**

This appeal of the assessee is directed against the order of the order of the Commissioner of Income Tax (Appeals) – 15, Chennai, dated 24.09.2015 and pertains to assessment year 2012-13.

2. Shri R. Sivaraman, the Ld. counsel for the assessee, submitted that the first issue arises for consideration is with regard to disallowance of ₹35,852/- made under Section 14A of the Income-tax Act, 1961 (in short "the Act") read with Rule 8D of the Income-tax Rules, 1962. The Ld. counsel submitted that the assessee has not received any dividend income during the assessment year under consideration and there was no fresh investment also. Even though the judgement of Delhi High Court in Chem Investments Limited v. CIT (234 Taxmann 761) and the judgement of Gujarat High Court in CIT v. Corrtect Energy Pvt. Ltd. (45 Taxmann.com 116) were brought to the notice of the authorities below, the Assessing Officer disallowed the claim of the assessee by applying third limb of Rule 8D(2) of the Income-Tax Rules, 1962. According to the Ld. counsel for the assessee, when the assessee has not incurred any expenditure, there is no question of any disallowance.

3. On the contrary, Shri P. Radhakrishnan, the Ld. Departmental Representative, submitted that the Assessing Officer by applying third limb of Rule 8D(2) disallowed the amount equal to 0.5% of average value of investment, income from which does not

or shall not form part of total income, as appearing in the balance sheet of the assessee on the first day and last day of the previous year. This computation made by the Assessing Officer was not found incorrect by the assessee, therefore, it is not correct to say that there was no investment during the year under consideration. According to the Ld. D.R., Rule 8D is mandatory for the year under consideration. Therefore, the CIT(Appeals) has rightly confirmed the order of the Assessing Officer.

4. We have considered the rival submissions on either side and perused the relevant material available on record. It is a specific case of the assessee before this Tribunal that there was no investment during the year under consideration and there was no dividend income earned by the assessee. It is the case of the assessee that no expenditure was incurred to earn the dividend income. The Assessing Officer, however, computed the average investment and an amount equal to 0.5% of the same, the income from which does not form part of total income, and disallowed. Therefore, we have to verify whether any investment was made during the year under consideration, which reflected in the balance sheet on the first day and last day of the previous year. It also

needs to be examined whether any income was earned by the assessee on the investment made. Since no material was available on record, this Tribunal is of the considered opinion that the matter needs to be re-examined. Accordingly, the orders of the lower authorities are set aside. The issue of disallowance under Section 14A of the Act is remitted back to the file of the Assessing Officer. The assessee shall bring on record the actual investment made by it, which is appearing in the balance sheet on the first day and last day of the previous year and the income earned which does not form part of total income. Thereafter, the Assessing Officer shall compute the disallowance by applying provisions of Rule 8D(2), after giving reasonable opportunity to the assessee.

5. The next ground of appeal is with regard to credit for TDS for ₹33,536/-.

6. Shri R. Sivaraman, the Ld. counsel for the assessee, submitted that tax was deducted to the extent of ₹33,536/-. However, the Assessing Officer has not given credit for the TDS amount. Therefore, the CIT(Appeals) directed the Assessing Officer to reconcile the TDS certificate and Form No.26AS and thereafter to give due credit as per the provisions of law.

7. We have heard Shri P. Radhakrishnan, the Ld. Departmental Representative also. The Ld. Departmental Representative has very fairly submitted that the Assessing Officer may be asked to verify the TDS credit and reconcile the TDS certificate and Form No.26AS and thereafter decide the issue in accordance with law.

8. We have considered the rival submissions on either side and perused the relevant material available on record. Tax deducted at source needs to be given credit as per the provisions of law in respect of the income which was offered for taxation. Therefore, it is for the assessee to reconcile the credit before the Assessing Officer. Therefore, the CIT(Appeals) has rightly directed the Assessing Officer to verify the TDS certificate and Form No.26AS and give due credit to the amount reflected therein after examination. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

9. In the result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced on 5<sup>th</sup> May, 2016 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 5<sup>th</sup> May, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-15, Chennai
4. आयकर आयुक्त/CIT-6, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.